

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

THE STATE OF TEXAS,

Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:23-CV-00055-AM

PLAINTIFF’S UNOPPOSED MOTION TO SUBSTITUTE PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 25(d)

Plaintiff respectfully moves to substitute Chief Robert Danley, in his official capacity as Acting Chief Patrol Agent, Del Rio Sector of US Border Patrol (“USBP”), a party defendant in this lawsuit for former Acting Chief Patrol Agent Juan Bernal.

1. Juan Bernal, who is currently named as an official capacity defendant in this lawsuit, Dkt. 1, has been replaced from the position of Acting Chief Patrol Agent, Del Rio Sector of USBP.
2. Robert Danley has assumed the role of Chief Patrol Agent, Del Rio Sector of USBP.
3. Under Federal Rule Civil Procedure 25(d)(1), “when a public officer is a party to an action in his official capacity and during its pendency . . . ceases to hold office, the action does not abate and the officer’s successor is automatically substituted as a party.” Therefore, substitution of Chief Danley is automatic under the circumstances in this case. *Id.* Accordingly, Chief Danley should be substituted in this suit as Acting Chief Patrol Agent, Del Rio Sector of USBP, in his

official capacity, and all future pleadings should refer to and name him. FED. R. CIV. P. 25(d); *see, e.g., Smith v. Shinseki*, 716 F.Supp.2d 556, 562 n. 2 (S.D. Tex. 2009).

CONCLUSION

For these reasons, Plaintiff requests that this Court grant their motion for substitution and:

(1) remove Juan Bernal as the Acting Chief Patrol Agent, Del Rio Sector of USBP in this suit; (2) substitute Robert Danely as the Chief Patrol Agent, Del Rio Sector of USBP, sued in his official capacity; (3) order the Clerk of the Court to amend the docket sheet to reflect this substitution; and (4) order that all pleadings and papers filed with this Court after the date of the Court's order shall name Robert Danley as the Chief Patrol Agent, Del Rio Sector of US Border Patrol, in his official capacity.

Dated: February 27, 2024.

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Respectfully submitted.

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I certify that I conferred via email with counsel for Defendants, Jean Lin of the U.S. Department of Justice, Civil Division, Federal Programs Branch, regarding the relief requested in this motion. Counsel for Defendants stated that they do not oppose the motion.

/s/ David Bryant
DAVID BRYANT

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on February 27, 2024, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ David Bryant
DAVID BRYANT